

**BOARD FOR GEOLOGISTS AND GEOPHYSICISTS**

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**MINUTES OF THE MEETING  
OF THE  
BOARD FOR GEOLOGISTS AND GEOPHYSICISTS  
April 20, 2001**

**2535 Capitol Oaks Drive  
Sacramento, CA 95833-2926**

**1. CALL MEETING TO ORDER**

David Cummings, President, called the meeting to order at 8:30 AM.

**2. ROLL CALL TO ESTABLISH QUORUM**

David Cummings, President  
Karen Melikian  
Seena N. Hoose  
Sharon Jasek Reid

Absent: Dorene Dominguez, Vice President

Others in attendance:

Paul Sweeney, Executive Officer

Donald Chang, Supervising Legal Counsel,

Department of Consumer Affairs

Gary Duke, Legal Counsel, Department of Consumer Affairs

Mary Lynn Ferreira, Associate Governmental Program Analyst

Richard Bailey, Office of Environmental Health Hazard Assessment

Elizabeth Mathieson, Chair, Enforcement Oversight Committee

Richard T. Needham, Attorney at Law

Joseph E. Odencrantz, Ph.D.

Theodore Smith, Division of Mines and Geology

Buzz Spellman, Association of Engineering Geologists,

Southern California Section

Julia Turney, Member, Technical Advisory Committee

Ernest Weber, Member, Examination Committee

Judith Wolen, Association of Engineering Geologists

*The Mission of the Board for Geologists and Geophysicists is to Continuously Enhance the  
Quality, Value and Availability of Geological and Geophysical Services Offered to the People of California*

**3. PUBLIC COMMENT ON NON-AGENDA ITEMS**

Buzz Spellman alerted the Board to AB 446 (Committee on Business and Professions) and AB 269 (Correa).

**4. APPROVAL OF THE MINUTES OF THE BOARD MEETING OF JANUARY 26, 2001**

**Ms. Reid moved to approve the open and closed minutes of the January 26, 2001, Board meeting.**

**Ms. Hoose seconded.**

**The motion passed unanimously.**

**5. DISCUSSION OF ENFORCEMENT ISSUES, PERSONNEL MATTERS, EXAMINATION PROCEDURES AND RESULTS, ADMINISTRATIVE ADJUDICATION, AND PENDING LITIGATION**

The Board adjourned to Closed Session pursuant to subsection (a)(1) of section 11126 of the Government Code.

The open session of the meeting resumed.

**6. REPORT ON RESULTS OF CLOSED SESSION**

Mr. Cummings reported that the Board addressed an issue related to a personnel matter during closed session.

**7. ADJOURN MEETING TO CONVENE PUBLIC HEARINGS TO:**

Mr. Sweeney presided over the public hearing to amend section 3005, Title 16, Division 29, California Code of Regulations. He announced that the Board was conducting a public hearing to amend section 3005 of Title 16, California Code of Regulations. He also announced the authority for the amendments to the regulation, the date, time and location of the hearing, the procedures for notification of the hearing and the procedures for conduct of the hearing and submittal of comments.

There were no public comments presented at the hearing.

Ms. Hoose pointed out that subsection (d) must be modified because of the renumbering of subsection (b).

Mr. Sweeney adjourned the public hearing at 9:25 AM.

**Ms. Hoose moved to issue a 15-day notice of availability of modified text to amend subsection (d) to reference the correct numbers of subsection (b) and to delegate the Executive Officer the authority to adopt the change at the expiration of the 15-day comment period provided the Board does not receive any adverse comments directed to the proposed modification.**

**Ms. Melikian seconded.**

**The motion passed unanimously.**

**(Board Directive No. 01-12) – (Sweeney/Ferreira)**

Mr. Sweeney presided over the public hearing to amend section 3008, Title 16, Division 29, California Code of Regulations. He announced that the Board was conducting a public hearing to amend section 3008 of Title 16, California Code of Regulations. He also announced the authority for the amendments to the regulation, the date, time and location of the hearing, the procedures for notification of the hearing and the procedures for conduct of the hearing and submittal of comments.

There were no public comments presented at the hearing.

Mr. Sweeney adjourned the public hearing at 9:30 AM.

Ms. Hoose pointed out a typographical error in the proposed text where the word “physical” should be “geophysical.”

**Ms. Hoose moved to issue a 15-day notice of availability of modified text to amend subsection (d) to change “physical” to “geophysical” and to delegate the Executive Officer the authority to adopt the change at the expiration of the 15-day comment period provided the Board does not receive any adverse comments directed to the proposed modification.**

**Ms. Melikian seconded.**

**The motion passed unanimously.**

**(Board Directive No. 01-13) – (Sweeney/Ferreira)**

## **8. EXECUTIVE OFFICER’S REPORT**

Executive Officer Paul Sweeney reported:

- a. The Board received expenditure projections for FY 2000-01, an analysis of fund condition through 2003-04 and an expenditure history prepared by Stacey Luna, Budget Analyst. Mr. Sweeney reported that Ms. Luna advised that by the end of FY 2001-02 the fund starts to go into a deficit condition. He recommended that at the next meeting, the Board consider measures to reduce expenses such as reducing the administration of examinations to once a year and further reduction in Board and Committee meetings.
- b. The Board received a copy of "An Internal Control Review" on the audit of the Board's internal controls performed by the Department of Finance, Office of State Audits and Evaluations. Mr. Sweeney reported that he will meet with Department of Consumer Affairs (DCA), Internal Audit Office, within the next four months to review implementation of procedures recommended in the audit.

Ms. Reid suggested that Mr. Sweeney review the sections of the State Administration Manual cited in the audit.

- c. George Dunfield accepted the Associate Engineering position as Enforcement Manager effective May 7, 2001. Mr. Dunfield is a Registered Geologist currently employed by the State Water Resources Control Board.
- d. Post cards for the Winter newsletter and Information Bulletins 01-01 and 01-02 were released.

Board members and Committee chairs must submit articles for the Summer newsletter by April 26, 2001.

Mr. Sweeney attended the April 2, 2001, meeting of the Association of Engineering Geologists and the Southern California Geological Association in San Juan Capistrano. Roy Shlemon, Technical Advisory Committee member, gave a presentation and Mr. Sweeney spoke to individuals about the revised Act.

Mr. Sweeney met with representatives of the California Council of Geoscience Organizations during its annual legislative day on March 1, 2001.

- e. The Governor's Office provided notification that new technical standards for State of California Internet sites are being developed and are forthcoming. DCA is currently analyzing the details of the

standards and assessing the effects on its boards' and bureaus' websites.

- f. Mr. Sweeney provided his February/March 2001 Executive Officer's Activity Report.
- g. Mr. Sweeney provided an email from Frank Turek, President, National Association of State Boards of Geology (ASBOG), in which he states that ASBOG's Executive Committee is following the audit plan and scope approved by the member boards at the October 2000 Annual Meeting. The Executive Committee actions are focused to have a recommended Certified Public Accountant to provide the services approved by the member boards to present to the member boards at the October 2001 Annual Meeting. Mr. Sweeney reported that he sent the ASBOG Executive Committee a copy of "Government Auditing Standards" by the United States Comptroller General.

The Board received a \$600 reimbursement for staff time in preparing documents for litigation involving the State of California versus the tobacco industry.

**9. UPDATE ON COOPERATIVE EFFORTS WITH THE CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY'S OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT CONCERNING THE REGISTERED ENVIRONMENTAL ASSESSOR PROGRAM**

Mr. Sweeney reported that the joint letter, dated February 23, 2001, from the Office of Environmental Health Hazard Assessment (OEHHA) and the Board to environmental professionals clarifying the role of Registered Environmental Assessor (REA) II registrants and Registered Geologists in site mitigation activities is posted on both agencies' websites.

Richard Bailey, OEHHA, reported that there has been no response from the REA community.

**10. REPORT ON PUBLIC INTEREST LAW SUMMIT ON MARCH 23-24, 2001 IN SAN DIEGO**

Mr. Sweeney reported that Tara Torok attended the Public Interest Law Summit: Taking the Offensive on March 23 and 24, 2001, in San Diego, for Ms. Melikian who was unable to attend because of travel complications. Because Ms. Torok was unable to report at this meeting, the Board requested that she provide the members with a written summary of the summit.

**(Board Directive No. 01-14) – (Torok)**

**11. CONSIDERATION OF DRAFT REGULATIONS THAT MAY BE ISSUED FOR PUBLIC COMMENT TIME LIMIT OF 5 YEARS FOR CREDIT FOR PASSING PORTION OF THE REGISTERED GEOLOGIST EXAMINATION**

The Board discussed imposing a five-year time limit for receiving credit for passing any of the required examinations for licensure as a Registered Geologist.

The Board decided to defer this matter until after the annual meeting of the California State Universities' geology chairs in Fall 2001 when administration of the ASBOG Fundamentals of Geology examination as an exit examination can be discussed. The Board directed Mr. Sweeney to pursue discussion of the exit examination at the Fall 2001 meeting.

**(Board Directive No. 01-15) – (Sweeney)**

**12. CONSIDERATION OF APPLICATIONS FOR REGISTRATION AS A GEOLOGIST UNDER SECTION 7847 JOHN M. BUKOWSKI, MARK I. PFAU AND JOHN E. JENKINS**

The Board considered the Application for Registration as a Geologist under section 7847 of John M. Bukowski.

**Ms. Reid moved to approve the Application for Registration as a Geologist under section 7847 of John M. Bukowski.**

**Ms. Melikian seconded.**

**The motion passed unanimously.**

The Board considered the Application for Registration as a Geologist under section 7847 of Mark I. Pfau.

**Ms. Reid moved to approve the Application for Registration as a Geologist under section 7847 of Mark I. Pfau.**

**Ms. Hoose seconded.**

**The motion passed unanimously.**

The Board considered the Application for Registration as a Geologist under section 7847 of John E. Jenkins.

**Ms. Hoose moved to approve the Application for Registration as a**

**Geologist under section 7847 of John E. Jenkins.**

**Ms. Melikian seconded.**

**The motion passed by majority.** (Aye – Hoose, Melikian; No – Reid; Abstain – Cummings.)

**13. REPORT ON AND POTENTIAL ADOPTION OF THE BOARD'S 2001 STRATEGIC PLAN**

Ms. Reid reviewed the revisions and updates to the Strategic Plan recommended by the Strategic Planning Committee. The Board made minor amendments to the recommended Strategic Plan.

**Ms. Reid moved to adopt the 2001 Strategic Plan as recommended by the Strategic Planning Committee and amended by the Board.**

**Ms. Hoose seconded.**

**The motion passed unanimously.**

**14. TECHNICAL ADVISORY COMMITTEE REPORT ON MARCH 23, 2001, TAC MEETING**

Julia Turney, Member, Technical Advisory Committee, reported:

- a. The TAC recommended to the Board the appointment of Brian M. Hirst as the geophysicist member of the Committee. The TAC also recommended Martin Miele for second consideration for appointment in the event Mr. Hirst is not appointed.

**Ms. Reid moved to appoint Brian M. Hirst as the geophysicist member of the Committee.**

**Ms. Hoose seconded.**

**The motion passed unanimously.**

- b. The Committee received a summary of the March 23, 2001, TAC meeting prepared by Robert Larson, Chair.

Ms. Turney pointed out that TAC is looking at the use of seals in digital format. It is gathering information from other state agencies.

TAC member Donna Thompson prepared a spreadsheet on other states' Codes of Professional Standards. The members are reviewing the information for discussion at the next TAC meeting. Ms. Reid suggested that Board members also review the information and notify the TAC of any provision in other states' codes that they want included in the Board's Code of Professional Standards.

Theodore Smith, Division of Mines and Geology (DMG), addressed an item in Mr. Larson's summary that states DMG has a current budget change proposal (BCP) to digitize the consulting reports submitted to the state in compliance with the Alquist Priolo Earthquake Zone Act. He stated that a BCP was approved last year, and DMG will have completed the digitization by the end of June 2001. However, because of copyright issues that must be resolved, DMG may go to the Legislature and ask for a law change.

## **15. LEGISLATIVE COMMITTEE REPORT**

Julius C. Isham, Chair, Legislative Committee, reported:

- a.** SB 136 (Figueroa) currently changes the name of the Act to the California Geologist and Geophysicist Licensing Act. The bill will be amended to include the revised Act.

The Association of Engineering Geologists, Southern California Section, is opposed to subsection (c) of section 7833.

Judith Wolen, Lobbyist for the Association of Engineering Geologists, informed the Board that the bill will be heard in the Senate Business and Professions Committee on April 30, 2001.

The Board deferred discussion on this bill to Agenda Item No. 21.

- b.** AB 791 (Chavez) requires the Department of Health Services to accept as presumptive evidence of compliance with the requirements of existing law, a certification report from a California Registered Geologist submitted in support of an application for bottled water verifying the purported water type set forth on the label of the bottled water.

Mr. Isham recommended that the Board support the bill.

Theodore Smith recommended that before taking a position,

the Board talk to the Department of Health Services which opposes this bill.

**Ms. Hoose moved to watch AB 791.**

**Ms. Reid seconded.**

**The motion passed unanimously.**

- c. AB 1118 (Corbett) requires that seismic retrofit construction of an apartment, condominium, or congregate residence, as defined in section 204 of the Uniform Building Code, of Group R, Division 1 Occupancy with more than four dwelling units, as defined in the California Building Standards Code, shall be designed by a licensed architect or registered civil engineer.

Mr. Ishman recommended that the Board take a position of support if amended to require that for geologic-related matters, a Registered Geologist shall be consulted.

**Ms. Reid moved to support AB 1118 if amended to require that for geologic-related matters, a Registered Geologist shall be consulted.**

**Ms. Melikian seconded.**

**The motion passed unanimously.**

**(Board Directive No. 01-16) – (Sweeney)**

Mr. Isham stated that the Committee will follow AB 269 and AB 446 referred to by Mr. Spellman during Agenda Item No. 3, Public Comment.

Mr. Spellman questioned whether or not there is a conflict of interest because Mr. Isham is the chair of the Board's Legislative Committee, the chair of the Association of Engineering Geologists (AEG), San Francisco Section, Legislative Committee, and a member of the AEG, Sacramento Section, Legislative Committee. Mr. Chang advised that because Mr. Isham is not a Board member, there is no conflict of interest. The Committee only analyzes legislation and make recommendations to the Board. The Board makes decisions regarding legislation.

## **16. EXAMINATION COMMITTEE REPORT**

Ernest Weber, Member, Examination Committee, reported:

- a. The Board received draft minutes of the February 16, 2001, Examination Committee meeting.
- b. The Board received attendance statistics for the Spring 2001 examinations.

The criterion-referenced pass point workshops were held on March 26, 27, and 28.

Mr. Sweeney reported that examination results will be sent next week to examinees who took the Registered Geologist California-Specific only, Registered Geophysicist, Certified Engineering Geologist and Certified Hydrogeologist examinations.

- c. The DCA, Office of Examination Resources, will conduct a validation study to identify critical job activities performed by Registered Geophysicists. The proposed start date for this project is July 2001.
- d. The Committee recommended to the Board that an applicant who fails the Registered Geologist California-Specific Examination cannot retake it within six months.

Mr. Weber advised the Board that in order to implement on-demand testing it requires a much larger bank of questions than presently exists. Mr. Sweeney informed the Board that item-writing workshops are being conducted to generate new questions.

- e. Mr. Weber and Ms. Ferreira spent the previous day categorizing the Certified Hydrogeologist problems to ensure that the examination bank conforms to the occupational analysis. They also reviewed the summary sheets and answer keys for half of the problems in the bank for accuracy and completeness. They will complete the review of the remaining half of the problems on May 17, 2001, the day before the next Examination Committee meeting.

Mr. Sweeney reported that the State of Washington, Department of Licensing, will be accepting comments on its proposed regulations and will start licensing geologists on July 1, 2001.

**17. CONSIDERATION OF EXECUTIVE OFFICER'S RECOMMENDATION TO ELIMINATE THE CALIFORNIA-SPECIFIC PORTION OF THE REGISTERED GEOLOGIST LICENSING EXAMINATION**

Mr. Sweeney recommended to the Board that the California-Specific

portion be eliminated as a required examination for licensure as a Registered Geologist. He stated that John Williams, Chair of the Examination Committee, agrees with this recommendation. Mr. Sweeney explained that after three administrations of the ASBOG examinations, it is his personal opinion that the one-hour California-specific Examination does not protect further the health and safety of the public. He believes that when SB 1984 was enacted to require a national examination, the California-specific examination was added to allay the concerns of those who felt that the ASBOG examination would not be adequate. He feels that it is now a moot point because the ASBOG examination is a superior product, in his opinion.

The Board discussed the matter and decided to revisit it in two years.

## **18. ENFORCEMENT OVERSIGHT COMMITTEE REPORT**

- a. The Enforcement Oversight Committee met on April 17, 2001.

The Committee reviewed:

- One closed complaint case.
- State Mining and Geology Board's Disclosure of Ex-parte Communications form to document a board member's communication with the public or profession on a matter potentially concerning an enforcement case. Mr. Sweeney is revising the form and will distribute it to the board members.
- Draft complaint flow chart prepared by Mr. Sweeney. He will refine it for further review before the next Board meeting.
- Enforcement reporting requirements for the next report to the Joint Legislative Sunset Review Committee. The Committee identified areas of information gathering that must be implemented. Mr. Sweeney will initiate the appropriate data collection.
- Draft Enforcement Oversight Committee Work Plan for 2001-02. Ms. Mathieson reviewed the plan for the Board.

The Committee considered governmental agency report reviewers' responsibilities to report violations of the Act. The Committee concluded that review of reports by government agencies' geologists is professional work and is governed by the Act, but there is no reporting requirement.

**19. CONSIDERATION OF REQUEST FROM A REGISTERED GEOLOGIST TO INCLUDE LICENSE EXPIRATION DATE ON REGISTERED GEOLOGIST AND REGISTERED GEOPHYSICIST SEALS**

The Board considered correspondence, dated February 20, 2001, from Bruce R. Hilton, R.G., requesting the Board to modify the Act to require inclusion of expiration dates on registration or specialty license stamps.

The Board took no action on the matter.

**20. CONSIDERATION OF POTENTIAL CHANGE TO BOARD POLICY REGARDING PLACING CLOSED CASE INFORMATION ON THE BOARD'S WEBSITE**

Joseph E. Odencrantz, Ph.D., and Richard T. Needham, Attorney at Law, representing Dr. Odencrantz, appeared before the Board requesting the Board to change its policy regarding posting on its website any enforcement action in which the cited party has not been proven liable but instead settles the matter without any admission of liability.

The Board discussed with Dr. Odencrantz and Mr. Needham the Board's current notification to cited individuals regarding public disclosure, its disclosure policy and possible future procedures.

**Ms. Reid moved to direct the Executive Officer to: (1) provide a copy of the disclosure policy to cited individuals at the time of the settlement conference, (2) move to a separate category in the enforcement section on the website citation and fine cases already posted where there was no admission of liability, (3) remove the individuals' names in these cases and (3) review the current disclosure policy and revise as necessary for consideration by the Board at its next meeting.**

**Ms. Hoose seconded.**

**The motion passed unanimously.  
(Board Directive No. 01-17) – (Sweeney)**

The Board also directed Mr. Sweeney to add a statement on the website

advising the public to contact the Board for further information on all enforcement actions.

**(Board Directive No. 01-18) – (Sweeney)**

**21. REPORT ON THE BOARD'S SUBMITTAL OF THE REVISED ACT TO THE LEGISLATURE**

Judith Wolen, Lobbyist, Association of Engineering Geologists, reported that SB 136 will be heard in the Senate Business and Professions Committee on April 30, 2001.

The AEG, Southern California Section, in a letter, dated March 30, 2001, to Senator Figueroa, stated opposition to the bill unless proposed subsection (c) of section 7833 is deleted. Ms. Wolen reported that she discussed this matter with Bill Gage, Chief Consultant, Senate Business and Professions Committee, and Robin Hartley, Consultant, Joint Legislative Sunset Review Committee. Ms. Hartley advised Ms. Wolen that if the Board concurs with the AEG's recommendation to delete this section, Senator Figueroa will amend AB 136 to include the revised Act provisions.

Julia Turney stated that the Sacramento Section of AEG does not object to deleting subsection (c) of section 7833. Mr. Isham advised that the San Francisco Section of AEG concurs.

Mr. Sweeney recommended that the Board agree to delete subsection (c) of section 7833.

**Ms. Hoose moved to delete subsection (c) of section 7833 from the proposed revised Act provisions.**

**Ms. Reid seconded.**

**The motion passed unanimously.**

Mr. Chang advised the Board that he incorrectly informed it at the last Board meeting that there is a general Business and Professions Code section that allows the Board to have a seal. Therefore, he recommended that section 7820 not be deleted in the proposed revisions to the Act.

**Ms. Hoose moved to not delete section 7820 in the proposed revised Act.**

**Ms. Reid seconded.**

**The motion passed unanimously.**

The Board directed Mr. Sweeney to inform Ms. Hartley of the actions taken regarding the revised Act.

**(Board Directive No. 01-19) – (Sweeney)**

**22. REPORT FROM BOARD ATTORNEY ON STATUS OF ASSIGNMENTS**

Gary Duke, Legal Counsel, reported that he reviewed the Professional Engineers Act provisions regarding security in seals. He provided the Board with proposed amendments to section 3008 for review and future action. Mr. Duke advised that these amendments are a starting point as they do not address the security of electronic signatures on seals.

**23. ANNOUNCEMENTS/ACTIVITIES OF BOARD MEMBERS**

There were no announcement/activities of Board members.

**24. ESTABLISH AGENDA FOR JULY 20, 2001, BOARD MEETING IN SACRAMENTO WITH NOTIFICATION THAT ITEMS MUST BE SUBMITTED TO BOARD OFFICE NO LATER THAN MAY 29, 2001**

Mr. Cummings stated that agenda items for the July 20, 2001, Board meeting must be submitted to Mr. Sweeney no later than May 29, 2001.

**25. ADJOURN MEETING**

Mr. Cummings adjourned the meeting at 1:00 PM.

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**DORENE DOMINGUEZ, President**

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**PAUL SWEENEY, Executive Officer**

**Date Approved:** August 3, 2001